

House Bill 1358

By: Representatives Mills of the 25th, Knox of the 24th, and Lunsford of the 110th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to the
2 parent and child relationship generally, so as to provide for a short title; to provide for
3 definitions; to provide that it shall be unlawful for any person or entity to intentionally or
4 knowingly create or attempt to create an in vitro human embryo by any means other than
5 fertilization of a human egg by a human sperm; to provide legal status for the in vitro human
6 embryo; to provide that a human embryo is a legal person; to provide for standards for
7 physicians and facilities performing in vitro fertilizations; to provide for judicial standards;
8 to provide for adoption of in vitro human embryos; to provide for inheritance rights of in
9 vitro human embryos; to provide for liability; to provide for related matters; to provide an
10 effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Human Embryo Protection Act."

14 **SECTION 2.**

15 Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to the parent and
16 child relationship generally, is amended by adding a new article to read as follows:

17 "ARTICLE 4

18 19-7-60.

19 (a) As used in this article, the term:

20 (1) 'In vitro' means outside the human body.

21 (2) 'In vitro human embryo' means a human organism composed of one or more living
22 human cells and human genetic material so unified and organized that it has the potential
23 to develop into a human fetus if implanted in utero.

(b) It shall be unlawful for any person or entity to intentionally or knowingly create or attempt to create an in vitro human embryo by any means other than fertilization of a human egg by a human sperm.

19-7-61.

The creation of an in vitro human embryo shall be solely for the purpose of initiating a human pregnancy by means of implantation in the uterus of a human female for the treatment of human infertility. No person shall intentionally or knowingly implant or attempt to implant in a human uterus anything other than the product of fertilization of a human egg by a human sperm. The sale of a human ovum or in vitro human embryos is expressly prohibited.

19-7-62.

An in vitro human embryo exists as a legal person until such time as the in vitro human embryo is implanted in a human uterus or at any other time when rights attach to an unborn child or fetus in accordance with law.

19-7-63.

As a legal person, the in vitro human embryo shall be given an identification by the medical facility for use within the medical facility which entitles such in vitro human embryo to sue or be sued. The confidentiality of the in vitro fertilization patients shall be maintained in any court proceedings.

19-7-64.

An in vitro human embryo as a legal person is recognized as a separate entity apart from the medical facility or clinic where it is housed or stored.

19-7-65.

An in vitro human embryo is a biological human being who is not the property of the fertility physician or the facility which employs the physician or the donors of the sperm and ovum. If the in vitro fertilization patients express their identity, then their rights as parents as provided under this title will be preserved. If the in vitro fertilization patients fail to express their identity, then the physician shall be deemed to be temporary guardian of the in vitro human embryo until adoptive implantation can occur. A court in the county where the in vitro human embryo is located may appoint a guardian, upon motion of the in vitro fertilization patients, their heirs, or physicians who caused in vitro fertilization to be performed, to protect the in vitro human embryo's rights.

1 19-7-66.

2 Any physician or medical facility that causes fertilization of a human ovum in vitro shall
3 be directly responsible for the safekeeping of the in vitro human embryo.

4 19-7-67.

5 Only medical facilities meeting the standards of the American Society for Reproductive
6 Medicine and the American College of Obstetricians and Gynecologists and directed by
7 a medical doctor licensed to practice medicine in this state and possessing specialized
8 training and skill in artificial reproductive technology also in conformity with the standards
9 established by the American Society for Reproductive Medicine or the American College
10 of Obstetricians and Gynecologists shall cause the fertilization of an in vitro human
11 embryo. No person shall engage in artificial reproduction procedures unless qualified as
12 provided in this Code section.

13 19-7-68.

14 A viable in vitro human embryo is a legal person who shall not be intentionally destroyed
15 by any natural or other legal person or through the actions of any other such person. An
16 in vitro human embryo that fails to develop further over a 36 hour period, except when the
17 embryo is in a state of cryopreservation, is considered nonviable and is not considered a
18 legal person.

19 19-7-69.

20 An in vitro human embryo is a legal person who cannot be owned by the in vitro
21 fertilization patients who owe it a high duty of care and prudent administration. If the in
22 vitro fertilization patients renounce their parental rights for in utero implantation, then the
23 human embryo shall be available for adoptive implantation in accordance with written
24 procedures of the facility where it is housed or stored. The in vitro fertilization patients
25 may renounce their parental rights in favor of another married couple, but only if the other
26 couple is willing and able to receive the in vitro human embryo for implantation in the
27 woman's uterus. No compensation shall be paid or received by either couple to renounce
28 parental rights. Constructive fulfillment of the statutory provisions for adoption in this
29 state shall occur when a married couple executes a notarial act of adoption of the in vitro
30 human embryo and birth occurs.

31 19-7-70.

32 In disputes arising between any parties regarding the in vitro human embryo, the judicial
33 standard for resolving such disputes shall be the best interest of the in vitro human embryo.

1 19-7-71.

2 Strict liability or liability of any kind, including actions relating to succession rights and
3 inheritance, shall not be applicable to any physician, hospital, in vitro fertilization clinic,
4 or an agent thereof who acts in good faith in the screening, collection, conservation,
5 preparation, transfer, or cryopreservation of the in vitro human embryo for transfer to the
6 human uterus. Any immunity granted by this Code section is applicable only to an action
7 brought on behalf of the in vitro human embryo as a legal person.

8 19-7-72.

9 Inheritance rights shall not flow to the in vitro human embryo as a legal person unless the
10 in vitro human embryo develops into a fetus and is born in a live birth or at any other time
11 when rights attach to an unborn child in accordance with law. As a legal person, the in
12 vitro human embryo that is born in a live birth as a result of embryo adoption to another
13 couple shall not retain its inheritance rights from the biological parents."

14 **SECTION 3.**

15 This Act shall become effective upon its approval by the Governor or upon its becoming law
16 without such approval.

17 **SECTION 4.**

18 All laws and parts of laws in conflict with this Act are repealed.